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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Serial No.09/052,278
 Filing Date3/30/98
 Inventorship Robin
 Applicant Microsoft Corporation
 Group Art Unit2672
 Examiner C. Harrison
 Attorney's Docket No.MS1-206USC1
 Title: Apparatus and Method For Automatically Positioning A Cursor On A Control

REPLY BRIEF

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JAN 24 2003

Technology Center 2600

To: Board of Patent Appeals and Interferences
 Washington, D.C. 20231

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PATENT TRADEMARK OFFICE

Pursuant to 37 C.F.R. §1.193, Applicant / Appellant submits a reply brief to Examiner's Answer, Paper No. 24, for application 09/052,278 within the requisite two-month time period from the date of the Examiner's Answer on November 19, 2002.

The following remarks are responsive to new points raised in the Examiner's Answer and are submitted for consideration with the Appeal to the Board of Patent Appeals and Interferences. The remarks are particularly directed to the Examiner's discussion in Section 11, *Response to Argument*, beginning at page 6 of the Answer.

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1 **Appeal Issue # 1**

2 Applicant contends that McLaughlin does not disclose representing a
3 control group with a single status indicator in a data structure.

4 In response to the issues set forth in the Appeal Brief, the Office continues
5 to rely upon the disclosure of the subject application to interpret plausible features
6 of McLaughlin as a basis to substantiate a rejection of the subject application. For
7 example, the Office states that “the enabling or disablement of the locking
8 software represents a single status indicator” (*section 11*, p.6). There is no
9 teaching whatsoever of a single status indicator in McLaughlin. However the
10 Office rejects “representing the control group with a single status indicator in the
11 data structure”, as recited in claim 1, based only on the supposition that a single
12 status indicator is somehow represented by the teaching of McLaughlin.

13 Merely concluding that a feature of a reference represents that which is
14 positively recited by an Applicant is not a proper basis to substantiate a rejection.
15 The Office should not conclude that features of McLaughlin are inherent because
16 inherency may not be established by possibilities. The mere fact that a particular
17 feature may result from a given set of circumstances is not sufficient. (MPEP
18 §2163.07(a)).

19 Further, as described in the Appeal Brief, it is likely that McLaughlin
20 responds to the selection of a control by setting multiple status indicators, each
21 corresponding to a different control, to indicate that the different controls have
22 been “activated” or “enabled”. The Office states that “McLaughlin teaches the
23 selection of control ‘60’ enabling the locking software, which activates a group of
24 controls. Therefore the selection of control ‘60’ would be ... stored in memory
25 and represent a status of a group of controls” (*section 11*, pp. 6-7).

1 McLaughlin does not describe storing or representing the state of a control
2 (e.g., control '60') in a memory or any other data structure, nor does McLaughlin
3 describe any such state information relating to whether a control has been selected.
4 Instead, McLaughlin enables controls when a selection of control '60' activates
5 the locking software. In all likelihood, this involves changing the state
6 information corresponding to each of these controls, respectively. There is
7 absolutely no indication in McLaughlin of any sort of combined state information.

8 The Office also states that "the mechanical and virtual controls each
9 represent a data structure because they each comprise a group of controls having
10 an association (i.e., virtual controls are associated by the display features that they
11 manipulate)" (*section 11*, p. 6). Applicant claims "the control group being
12 comprised of at least two controls associated in a data structure" (claim 1). Again
13 the Office has relied upon the Applicant's disclosure to substantiate that a group of
14 controls represent a data structure in McLaughlin. Further, the Office improperly
15 relies on a "display feature" association of the controls, rather than an association
16 of controls in a data structure, as recited in claim 1.

17
18 **Appeal Issue # 2**

19 Applicant contends that McLaughlin does not disclose activation of
20 controls by storing an active value in a single status indicator.

21 In response, the Office states that upon activation of a group of controls,
22 "McLaughlin's disclosed system would store an active value for control '60'
23 which would represent a single status indicator". Applicant disagrees because, as
24 described above in response to the first Appeal Issue, McLaughlin does not teach a
25

1 single status indicator and, therefore, does not teach "storing an active value in the
2 single status indicator", as recited in claim 1.

3
4 Accordingly, for the above reasons, claims 1, 3, and 5-8 are allowable over
5 McLaughlin because the reference does not teach or suggest the combination of
6 elements recited in the claims.

7
8 **Conclusion**

9 The Office's basis and supporting rationale for the §103 rejection is not
10 supported by the express teachings of the McLaughlin reference. Applicant
11 respectfully requests that the §103 rejection be overturned and that pending claims
12 1, 3, and 5-8 be allowed to issue along with allowed claims 2 and 4.

13
14 Respectfully Submitted,

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16 Dated: Jan 17, 2003

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